

ORDER FOR FURTHER BRIEFING

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARLON JESSIE BLACHER,)	No. C 12-4775 RMW (PR)
)	
Petitioner,)	ORDER FOR FURTHER BRIEFING
)	
vs.)	
)	
L.S. MCEWEN,)	
)	
Respondent.)	

Petitioner, a state prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The court ordered respondent to show cause why the petition should not be granted. Respondent filed a motion to dismiss the petition as procedurally defaulted. Petitioner has filed an opposition. Respondent has filed a reply, and petitioner has filed an objection to his reply.

In light of Martinez v. Ryan, 132 S. Ct. 1309, 1318-21 (2012), and the Ninth Circuit's cases interpreting and applying Martinez, see, e.g., Van Nguyen v. Curry, 736 F.3d 1287 (9th Cir. 2013), Detrich v. Ryan, No. 08-99001, 2013 WL 4712729 (9th Cir. 2013) (en banc), the parties are directed to file supplemental briefing.

Specifically, **within twenty-one days** of the filing date of this order, respondent shall do one of the following: (1) file a supplemental response to petitioner's objections (doc. no. 28), addressing the implication of Martinez to petitioner's claim of excuse from procedural default;

1 (2) withdraw his motion to dismiss and re-file a motion to dismiss; or (3) withdraw his motion to
2 dismiss and notify the court that he will answer the petition on the merits.

3 If respondent files a supplemental response to petitioner's objections, petitioner shall
4 have **fourteen days** thereafter to file one final response. If respondent withdraws his motion to
5 dismiss and re-files a motion to dismiss, petitioner shall file his opposition within **twenty-eight**
6 **days**.

7 It is petitioner's responsibility to prosecute this case. Petitioner is reminded that all
8 communications with the court must be served on respondent by mailing a true copy of the
9 document to respondent's counsel. Petitioner must keep the court and all parties informed of any
10 change of address by filing a separate paper captioned "Notice of Change of Address." He must
11 comply with the court's orders in a timely fashion. Failure to do so may result in the dismissal
12 of this action for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

13 IT IS SO ORDERED.

14 DATED: 4/5/16


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARLON JESSIE BLACHER,
Plaintiff,

Case Number: CV12-04775 RMW

CERTIFICATE OF SERVICE

v.

L S MCEWEN et al,
Defendant.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 3, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Marlon Jessie Blacher CDC G-50077
California State Prison Los Angeles County
P O Box 8457
Lancaster, CA 93539-8457

Dated: February 3, 2014

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk